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Sabrina Charles-Pierre,
Editor

ROCKLAND COUNTY BAR ASSOCIATION



NEWSBRIEF

www.rocklandbar.org

February 2018

NOMINATIONS FOR AWARDS

We have a membership of many outstanding attorneys. Each year we recognize those that are nominated by their peers. If you would like to nominate someone for one or more of our awards, please fill out this form and fax (845-634-1055) or e-mail nancy@rocklandbar.org. Final decisions are made by our Board of Directors at an upcoming Board Meeting. Please submit your nominations as soon as possible.

THE LIBERTY BELL AWARD *This award is presented on Law Day to a member of our Community for outstanding service in promoting a better understanding or respect for the Constitution, the Bill of Rights and our institutions of government. Generally this award is usually given to a non-lawyer.*

I wish to Nominate:

THE STERNS AWARD *Given in the memory of Richard Sterns to a RCBA member who has made significant contributions to the Bar Association and the People of Rockland County over the year - service above self on behalf of the association. This award is presented at the Installation Dinner in June.*

I wish to Nominate:

THE LIFETIME ACHEIVEMENT AWARD *Presented to an individual for exemplary achievements as an attorney or judge over a career. This award is presented at the Annual Dinner.*

I wish to Nominate:

THE JOSEPH G. BALSAMO AWARD *This award is presented at the June Installation Dinner in memory of Joseph G. Balsamo, Esq., to a RCBA member who has gained significant respect from the members of the Bar and the public for his personal and professional contributions to both, while maintaining the highest form of integrity and professionalism while advocating for each.*

I wish to Nominate:

THE NATALIE COUCH AWARD *This award is dedicated to the memory of Natalie Couch, a pioneering member and president of the Rockland County Bar Association, who was a voting rights advocate and an influential community leader. The honoree should be someone whose own accomplishments have served to inspire others to overcome prejudice and barriers in attaining their goals for the benefit of our community. This award is presented at the Annual Dinner.*

I wish to Nominate:



In partnership with:



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CATHOLIC CHARITIES SEEKS VOLUNTEERS

Are you fluent in Spanish, French, or Haitian-Creole and English?*

Come join us on March 2nd, 2018 at our Rockland County Community Legal Clinic and serve your community with Catholic Charities!

Dedicated and personable volunteers are needed for information gathering, legal screenings, and application assistance. You will meet with prospective clients, gather information about their journey to the United States, their life histories, and work with Catholic Charities attorneys to inform immigrants about their rights and legal options. Training will be provided in advance. **Other language fluency preferred, but not required.*

Two shifts are available 9:00am - 1:30pm and 1:00pm - 5:30pm.
Sign up for one shift or both!

For more information, please visit us at:

<https://www.catholiccharitiesnyvolunteer.org/> or hyperlink to: [Legal Clinic](#),
or email CCvolunteer@archny.org with the subject line **ROCKLAND COUNTY CLINIC VOLUNTEER.**



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The Rockland County Bar Association would like to THANK

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AND Eddie, Nicole and Staff

For hosting our CLE programs during the Fall

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***15% Discount for Rockland County Bar Association Members on Valentine's Day**



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CATHOLIC CHARITIES SEEKS LEGAL VOLUNTEERS

**Are you an attorney or law student?
Do you want to help represent vulnerable immigrants in the
neediest regions of New York State?**

Sign up to be a Pro Bono Volunteer Advocate with Catholic Charities!

The CCCS Pro Bono Project is designed to give you the tools that you need to competently and effectively assist the most vulnerable immigrants in New York. If you choose to accept one of our pro bono matters, you can expect your representation to be supported by expert legal training, continuous technical assistance, and in-depth substantive mentorship.

How we're different...

- **Responsiveness**
We know that as a PBVA, if you have a question, it's probably urgent. Our team is committed to providing you with the best possible pro bono experience: when you call, we'll answer.
- **Immediate and strong mentorship**
Our team is one of the best in the country. Not only are our Pro Bono Supervising Attorneys specialists in their practice areas, but we are supported by more than 40 legal colleagues who are preeminent experts in every immigration-related subject area.
- **Expert training and practice templates at your fingertips**
Collectively, our team has been at this work for more than 25 years. Our experience, resources and partnerships combine to ensure that you never feel alone or unsupported.

Dedicated and personable volunteers are needed to represent immigrants in their legal matters. **No prior immigration experience is necessary!** Training and high intensity mentorship will be provided. **Second language fluency preferred, but not required.*

**Sign up today to join our PBVA Network and
hear about opportunities in your area!**

For more information, please visit us at: <https://www.catholiccharitiesnyvolunteer.org/>, hyperlink to [Attorney Volunteer Opportunity](#), or email CCCSProBono@archny.org.

CLE TIME

DIVORCE FRAUD RED FLAGS & FINANCIAL & TAX PITFALLS OF DIVORCE



FEBRUARY 15, 2018

6:00pm - 9:00pm

DOUBLETREE BY HILTON HOTEL NANUET

425 E. RTE 59

NANUET, NY 10954

PLAN OF THE LAWYER REFERRAL SERVICE

The Rockland County Bar Association under the guidance of the American Bar Association, has established a Lawyer Referral Service (“The Referral Service”) on a County-wide basis. The office is located at the Rockland County Bar Association, 337 North Main Street, Suite 1, New City, New York 10956.

The willing participation and continued support of lawyers practicing in Rockland County is crucial to the smooth operation of the Referral Service.

The purposes of the Referral Service are:

- To be a public service, available to assist the general public by providing an alternative source for any person who can afford to pay a reasonable fee for legal services and who does not have a lawyer by providing a referral to a lawyer who practices in Rockland County.
- To provide a vehicle for persons who need a legal representative but whose earnings or assets are too high for the standards set by Rockland County Legal Aid Society or Pro Bono New York; and
- To establish a better rapport between the public and the legal profession.

The Referral Service Plan is not designed to take clients away from attorneys. In fact, a cardinal principle will be to establish whether a prospective client has a present attorney. The Referral Service will not refer the client to a panel attorney of the Referral Service if we learn that a prospective client has seen other attorneys in an effort to bargain on fees. Additionally, a prospective client shall not be referred to a panel attorney if the prospective client has previously engaged the services of a lawyer on the same matter unless the original-lawyer-client relationship has been properly terminated in writing.

1. Membership on the Referral Service Panel is by individual attorney and not by law firm.
2. A panel attorney must abide by all of the rules of the Referral Service and will in no way hold, or claim to hold, the Rockland County Bar Association, the Referral Service or any of the members, officers or employees liable in connection with any referral made.

Won't you consider joining this important service? Find out more. Go to: www.rocklandbar.org. Go to "Member Resources."

LAWYER REFERRAL SERVICE (LRS)

TIME TO RENEW OR JOIN FOR 2018

The Lawyer Referral Service (LRS) program year runs from

January 1 – December 31.

It is time to renew or join!

TO RENEW:

Go to homepage on our website, www.rocklandbar.org, and go to “Member Resources.”

1. Click on “Join the Lawyer Referral Service”
2. Log-in to your account
3. Click on “2018 Renewal Form”

TO JOIN:

Go to homepage on our website, www.rocklandbar.org, and go to “Member Resources.”

4. Click on “Join the Lawyer Referral Service”
5. Log-in to your account
6. To Sign-up for the first time: click on “Plan Description and Full Application”

Join or Renew!

Helping Attorneys and The Public

COMMERCIAL LITIGATION ISSUES OF INTEREST

February 2018

Submitted by Paul Savad, Esq.

Chair, Commercial and Corporate Law Committee,

Joseph Churgin, Esq., and Susan Cooper, Esq., of

SAVAD CHURGIN, LLP, Attorneys at Law

Your client purchased property in 2005. A chain-link fence existed separating your client's back yard from the neighbor's back yard. The fence was located entirely on the neighbor's property, ten feet from the common boundary, creating a strip between the fence and your client's boundary line. The strip had trees and a shed that was built by the prior owner. Your client maintained the grass on the strip and cleared branches for five years. In 2010, your client cleared some of the trees, planted four arborvitae, and replaced the chain-link fence. Your client planted a garden in 2011. In 2015, your client built a pool, and the neighbor removed the fence. You commenced an action to quiet title, claiming adverse possession. The neighbor moved for summary judgment, arguing that there was no showing of exclusive possession, the fence was flimsy and not a substantial enclosure, and the acts of mowing and clearing did not give notice of adverse possession.

Will you defeat the motion for summary judgment?

The answer is no.

In *Lorenz v. Soares*, 71204/2015, NYLJ 1515965590NY712042015 (Sup. Ct. Westchester Co. January 10, 2018), the plaintiffs purchased property in Ossining, New York, in 2005. Before they purchased the property, they saw a fence separating their back yard from the neighbor's yard. The fence was 10-feet beyond their boundary on the defendant's property. Shrubs, maple and pine trees, and a shed built by the prior owner were on the strip between the fence and the parties' mutual boundary line. From 2005 until 2010, the plaintiffs mowed the grass and cleared fallen branches. In 2010, the plaintiffs removed the pine trees, planted four arborvitae, moved the shed, and replaced the fence. In 2011, they planted a garden. The defendants took down the fence in 2015 after the plaintiffs installed a pool in their backyard. Left without a proper barrier around their pool, the plaintiffs built a fence within their property line.

The plaintiffs then brought an action to clear title, claiming adverse possession for ten years, and claiming that the shed built by the prior own entitled them to tack on years before the plaintiffs owned the property. After depositions, the defendants moved for summary judgment. The defendants argued that granting the plaintiffs adverse possession would reduce the square footage of the defendants' lot below the minimum lot area allowed by Ossining's zoning code,

there had been no showing of exclusive possession, the flimsy fence was not a substantial enclosure, and any possible adverse possession did not begin before 2010, only five years before the defendant removed the fence.

The Court began by noting that the proponent of a claim of adverse possession must demonstrate, by clear and convincing evidence, that the possession was 1) hostile and under claim of right, 2) actual, 3) open and notorious, 4) exclusive, and 5) continuous for the statutory period of ten years, citing *Estate of Becker v. Murtagh*, 19 N.Y.3d 75 (2012).

However, the plaintiffs' claims were governed by the 2008 statutory change governing adverse possession, because the plaintiffs had not acquired adverse possession before its effective date. The 2008 statutory change eliminated what previously evidenced adverse possession under a claim of right. As the Court noted, the new statute included "for the first time, a statutory definition of the 'claim of right' element necessary to acquire title by adverse possession," quoting *Hogan v. Kelly*, 86 A.D.3d 590 (2d Dep't. 2011). The new statute defines a claim of right as "a reasonable basis for the belief that the property belongs to the adverse possessor or property owner, as the case may be." RPAPL 501(3). Previously, a party could establish adverse possession under a claim of right even if the party knew the property belonged to someone else.

Moreover, the new statute abrogates prior statutory and long-standing principles of common law by defining as "permissive and non-adverse" all "de minim[i]s non-structural encroachments" such as "fences, hedges, shrubbery, plantings, sheds, and non-structural walls," as well as "lawn mowing or similar maintenance across the boundary line." RPAPL 543.

Hence, the existence of the fence and the plaintiffs' actions of mowing the lawn and clearing branches from 2005 until 2010 were permissive, negating the element of hostility necessary to establish adverse possession.

The lesson?

Before advising a client on a claim of adverse possession, be sure to review the statute and case law *after* 2008, as many acts of exclusive possession that once might have been considered hostile and under a claim of right are now statutorily defined as permissive. Be especially alert to facts that show your client (or your client's adversary) likely knew the property they claim to have adversely possessed did not belong to them, which will now kill a claim of adverse possession.

MOCK TRIAL ROCKLAND

We are pleased to announce
the return of Mock Trial to Rockland County in 2018.
Local competition will begin in March, with Regional Finals in April and
State Finals in May in Albany.

Participating schools:
Albertus Magnus High School
Clarkstown North High School
Clarkstown South High School
North Rockland High School
Nyack High School



THE NEW UPDATED CONDO & CO-OP LIST

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WWW.ROCKLANDBAR.ORG

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Mike@Zall-Law.com

MEMO

TO ALL RCBA COMMITTEE CHAIRS & VICE- CHAIRS

The Association is seeking articles from your committee for publication in the Bar's monthly Newsletter. The membership would greatly benefit from your input and would appreciate it. The article does not have to be complicated or long - a succinct piece of general interest and importance would be best.

If you are able to submit an article for the Newsletter it should be sent via email to sabrina@rocklandbar.org by the 15th of the month so that the Executive Board may review it.

Thank you!



Monthly
Newsletter

Bankruptcy
Tax Analysis

Offer in
Compromise

**IRS
PROBLEMS**

Unfiled Tax
Returns

Penalty
Abatement

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**We are looking for
Spanish-speaking attorneys for
Assigned Counsel panels.**



News from the Executive Director

RCBA STAFF UPDATE

*Below please find a break-down of major areas of responsibility for the
RCBA Staff:*

ASSIGNED COUNSEL COORDINATOR – MANUELA GOMEZ

LAWYER REFERRAL SERVICE COORDINATOR – MANUELA GOMEZ

CLE COORDINATOR – SABRINA CHARLES – PIERRE

ADVERTISING/NEWSLETTER – SABRINA CHARLES – PIERRE

EXECUTIVE DIRECTOR – NANCY LOW – HOGAN, Ph.D.

LAW DAY 2018

**Tuesday, May 1, 2018
9:30 - 11:30 a.m.**

**Rockland County Courthouse
Jury Assembly Room - 2nd Floor
Save the date!**



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*Investment management services provided by our affiliate, Hudson Valley Investment Advisors, Inc., a wholly-owned subsidiary of Orange County Bancorp, Inc.



COMMITTEE CORNER

Assigned Counsel Committee Meeting

February 8, 2018 @ 12:30pm

Offices of the RCBA

Debt Collection, Bankruptcy & Creditor's Rights Committee

March 12, 2018 @ 5:30pm

Offices of the RCBA

**ALL ADVERTISEMENTS
AND ARTICLES MUST BE
REVIEWED BY THE
EXECUTIVE COMMITTEE
FOR CONTENT.**

Need a Place to Meet in New City?

RCBA Conference Rooms
available for rent.

MEMBER PRICES:

1st two hours FREE, then \$25/hour
Full Day (8 hours) = \$140.00

NON-MEMBER PRICES:

\$50/hour
Half Day (4 hours) = \$150.00
Full Day (8 hours) = \$300.00

NEWSBRIEF ADVERTISING RATES

FULL PAGE (7.5x10.25)	\$400.00
1/2 PAGE (7.5x5):	\$250.00
1/4 PAGE (3.75x5):	\$200.00
1/8 PAGE (3.75x2.5):	\$125.00
BUSINESS CARD:	\$75.00



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Announcing New Discounts:

10% for 6 mo. bookings

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PLEASE NOTE:

NEWSBRIEF IS NOT PUBLISHED IN JULY

CALL SABRINA @ 845-634-2149

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Advertising & articles appearing in the RCBA Newsletter does not presume endorsement of products, services & views of the Rockland County Bar Association.

2017-18 SPONSORSHIPS

Our 2017-18 Sponsorship Year began July 1, 2017 and continues through June 30, 2018.

There are several types of Sponsorships still available.

See complete details on our website under "About."



CLE CORNER

PLAN YOUR YEAR OF CLE'S NOW

2018 CLE TITLE	DATE & TIME
Divorce Fraud Red Flags & Financial & Tax Pitfalls of Divorce	Thursday, February 15, 2018 - 6:00pm - 9:00pm
Criminal Practice	Friday, March 9, 2018 - 1:00pm - 4:00pm
Mortgage Foreclosure Update	Tuesday, March 20, 2018 - 6:00pm - 9:00pm
Best Practices, Adult Drug Court to Improve Outcomes, and Neuroscience of Addiction	Thursday, April 5, 2018 - 6:00pm - 9:00pm
Ethics Update	Wednesday, April 18, 2018 - 12:00pm - 2:00pm
CPLR Update	Friday, May 4, 2018 - 1:00pm - 4:00pm
Family Businesses: Legal and Accounting Issues	Monday, May 21, 2018 - 6:00pm - 9:00pm
Elder Law and Special Needs Planning Update	Thursday, June 11, 2018 - 6:00Ppm - 9:00pm

NEW CLE REQUIREMENT

In addition to ethics and professionalism, skills, law practice management, and areas of professional practice, a new category was added for diversity, inclusion and elimination of bias courses. This category of credit is effective January 1, 2018.

Experienced attorneys due to re-register on or after July 1, 2018 must complete at least one credit hour in the Diversity, Inclusion and Elimination of Bias CLE category of credit as part of their biennial CLE requirement. The transitional CLE requirement for newly admitted attorneys remains unchanged. For more information about the CLE Rules, visit nycourts.gov/Attorneys/CLE.

CLE REQUIREMENTS

Newly admitted attorneys must complete 32 credit hours of accredited "transitional" education within the first two years of admission to the Bar. Sixteen (16) credit hours must be completed in each of the first two years of admission to the Bar as follows: 3 hours of Ethics and Professionalism; 6 hours of Skills; 7 hours of Practice Management and/or areas of Professional Practice. Experienced Attorneys must complete 24 credit hours of CLE during each biennial reporting cycle: 4 credit hours must be in Ethics and Professionalism. The other credit hours may be a combination of the following categories: Ethics and Professionalism, Skills, Practice Management or Professional Practice.

CLASSIFIED ADS

SITUATION WANTED

Attorney seeking to rent a law office space in the New City Area. If you are an attorney with an extra office to rent, kindly contact me at 624-1041. Willing to share expenses. Ask for Ira.

PART-TIME OFFICE - NEW CITY

Office in New City available to use on your letterhead, accept packages, meet with clients, hold conferences, send faxes, accept mail, meetings at day or night, receptionist, waiting area for clients, very ample free parking, private bathroom. Perfect for practitioner with home office who needs a public presence. Low monthly fee. Call Bill at 845-300-9168.

OFFICE FOR RENT

North Main Street, New City 11' x 13' with closet. Access to waiting room, bathroom and kitchenette. Bright and clean, freshly painted. Please call Carol at 914-557-5750.

OFFICE SPACE

New City- 4 room office suite, approx. 1800 sq. ft. total, can combine/ divide to suit individual user(s) needs -South Main Street, walk to courthouse, restaurants, gov't buildings, ample parking. Call Arthur 845-359-3560

OFFICE SPACE

Office Space available in New City. Attorney or Accountant preferred. Please call us for details. DaSilva & Hilowitz LLP (845) 638-1550

STORAGE SPACE - ORANGEBURG

Storage space for legal files available. 180 square foot storage space. 24/7 access. Currently used by local lawyers for storage. Premises are located in Route 303 in Orangeburg and are sprinklered. \$225.00/month, no lease required. Contact Bruce : 845-359-5400

OFFICE FURNITURE FOR SALE

Priced to sell. Vertical and lateral file cabinets, storage units, desks, chairs, conference table, book cases, credenza, tables, dividers, bulletin boards, white board. Please call Madelon at 914-527-2400 for information. Items are located in New City.

OFFICE FURNITURE FOR SALE

The Law Office of Ronald A. Phillips, P.C. (formerly McCormack & Phillips) has relocated to 60 Dutch Hill Road, Orangeburg, New York 10962.

We have office furniture/equipment for sale including lateral file cabinets, chairs, phone system, fax machine, etc. If interested, please call Lisa or Gina at (845) 353-0100.

ATTORNEYS SEEKING PARALEGALS

Rockland Community College ABA approved Paralegal program can assist attorneys with filling their open job positions for both part and full time employment opportunities. We have students that range from entry level to experienced Paralegals. Paralegals are not permitted to practice law, which means they cannot give legal advice, represent clients in court, set a legal fee or accept a case. Contact Amy Hurwitz-Placement Coordinator at (845) 574-4418 or email at ahurwitz@sunyrockland.edu

RECEPTIONIST/CALENDAR CLERK WANTED

For busy personal injury practice in Rockland County; typing and computer skills necessary; Spanish speaking a plus. Submit resume to Lawyers@pilaw.com

WORKERS' COMP. ATTORNEY WANTED

Perez & Morris LLC, a national client based law firm, seeks an experienced workers compensation attorney (at least one year) to handle NY workers compensation cases out of our Rockland County, NY office. We offer a competitive salary and benefit package. Email your resume to mdonohue@perez-morris.com.

MATRIMONIAL ATTORNEY WANTED

Attorney Wanted: New City Law Office seeking an attorney with matrimonial and family law experience, full time, trial experience a plus, Spanish speaking a plus, admitted to Southern District of NY a plus. Call 845.639.4600 or fax 845.639.4610 or E-mail: michael@demoyalaw.com

IMMIGRATION ATTORNEY WANTED

Immigration Attorney Wanted: New City Law Office seeking an attorney with immigration experience, full time, trial experience a plus, Spanish speaking a plus, admitted to Southern District of NY a plus. Also willing to assist with family law/bankruptcy/collections and loan modifications a plus. Call 845.639.4600 or fax 845.639.4610 or E-mail: michael@demoyalaw.com

TRIAL ATTORNEY WANTED

FINKELSTEIN and Partners seeks to hire a TRIAL ATTORNEY to work out of our Newburgh office. Candidates must be licensed to practice in New York. To be considered, candidates MUST have between 1-3 years of courtroom or deposition experience. If you speak/read Creole or Spanish, we will consider it a plus. Coverage primarily in Rockland and Westchester Counties.

LEGAL ASSISTANT WANTED

Entry level position available for part-time bilingual assistant. Located in New City, NY. Please call 845 709-6800

ASSOCIATE ATTORNEY NEEDED

3-5 years litigation experience for busy Rockland County firm. Please forward resume to phabas@barpc.com or fax to 845-359-5577

ATTORNEY SEEKING PART-TIME

Attorney with 7+ years of commercial litigation and real estate experience interested in part time and/or per diem work, including but not limited to, legal research, commercial/residential leasing, legal briefs/memoranda, e-filing. If interested, please call 914-260-1266.

NOTICE: FAX # CHANGE

Future faxes addressed to the Hon. Rolf Thorsen and/or his staff should be sent to: 845-483-8141
Judge Thorsen's Chambers and Staff: 5th Floor

SPANISH INTERPRETER

I'm interested in offering my services as a Spanish interpreter to the attorneys of the Rockland Bar Association. I have interpreted in Kings County Criminal Court and I am presently interpreting in Haverstraw Justice Court. I can interpret to help prepare for hearings and trials. I am willing to accompany attorneys to interpret in prisons or jails. I am available to meet interpretation needs professionally an affordably. I can be reached at (845) 743-1151 or joanneconde7@gmail.com

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